

The Right to be a Child

UNICEF India Background Paper

March 1994



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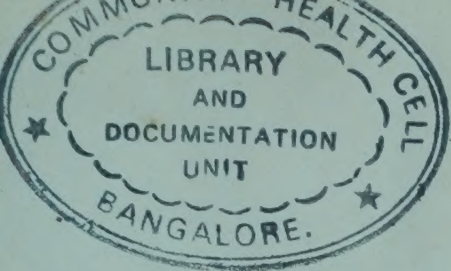
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The Right to be a Child

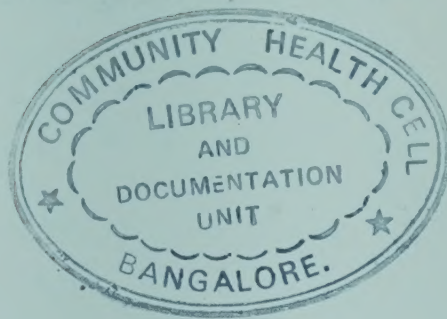
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*"Today we search for your unwritten name;
You seem to be just off the stage,
Like an imminent star of the morning
Infants bring again and again
A message of reassurance -
They seem to promise deliverance,
Light, dawn."*

Rabindranath Tagore
"New Birth" 1940

THESE ARE THE ONLY TWO
THAT REMAIN IN THE
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The Right to be a Child

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Abbreviations

ARI
ICDS
IMR
ORT
PEM
U5MR

Acute Respiratory Infections
Integrated Child Development Services
Infant Mortality Rate
Oral Rehydration Therapy
Protein energy malnutrition
Under five mortality rate

Preface

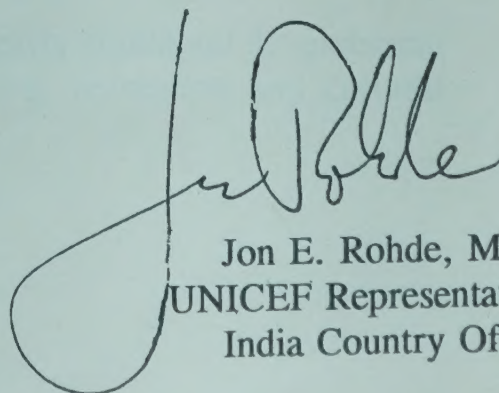
We are swept up in a tide of global change. Political and economic polarities are giving way to a common sense of shared purpose. Economic reforms have generated high expectations of a secure future for all people. It is a time envisioned by the historian Arnold Toynbee who said: "Ours is the first generation in all of history that can seriously think of bringing the benefits of civilization to all mankind." The future, bright and hopeful at last, belongs everywhere to children. It is only reasonable that children should become the focus of all development.

India has long displayed its remarkable potential to achieve what it sets out to do: self-sufficiency in food production and the end of famines in a land noted previously for hunger; a system of higher education second to none; and a flourishing re-discovery of an ancient culture, once again a proliferating display of the arts, dance, music and literature. Now is the time for India to deliver on its promises to its people and to its own ideals of universal primary education. Now is the time to eliminate the most common and mundane causes of death through immunization, providing clean water and the most basic of health services to all. Now is the time to eliminate forever the stealthy scourge sapping the nation's mental potential by iodizing all salt, by assuring that no one will be blind for lack of simple vitamins, or go hungry in the absence of food with millions of tonnes in the national grain store. The great Indian economist, Amartya Sen, has reminded us: "You reap what you sow - and you don't reap what you don't sow!" Now is the time to sow properly the future of this great nation by investing in its children.

With India's ratification of the Convention on the Rights of the Child in November 1992, more than 90 percent of the world's children became protected by this most widely ratified Human Rights Convention ever in the history of the world. This is no pious statement of aspirational goals to be achieved in a distant future. Rather it is a precise commitment to the children of today that this country can and will provide to its children a first call on its resources: to assure that the worst elements of poverty, ill-health, malnutrition, illiteracy, exploitation and an unhealthy environment will soon become conditions of the past. India should enter the 21st century, the third millennium, having eliminated the worst forms of deprivations and giving its children the hope and start they need to shape their own future. Government of India, in partnership with hundreds of NGOs, is working to bring this possible dream to reality in the closing years of this century. With the devolution of political power and resources to the community through the 73rd and 74th Constitutional Amendments, India is re-inventing government and placing once again its confidence in the institution so trusted and revered by Mahatma Gandhi: the villages across this great land.

UNICEF is proud and privileged to participate in this rapidly emerging demonstration of the power of democracy to fulfill its promises to its people, and to create a better future for its children

New Delhi
March 1994



Jon E. Rohde, M.D.
UNICEF Representative
India Country Office

It was a very good day for the school. The children were very happy and the teachers were very busy. The children were very happy and the teachers were very busy. The children were very happy and the teachers were very busy.

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THE CONVENTION

The *Convention on the Rights of the Child*, drafted by the UN Commission on Human Rights, and adopted by the General Assembly of the United Nations on 20 November 1989, is a set of international standards and measures intended to protect and promote the well-being of children in society. As of 1993, 159 countries had either signed the Convention or become State Parties to it by ratification, accession or succession, the goal being that by the end of 1995, all countries of the world would have ratified the Convention. The Convention recognizes the exceptional vulnerability of children, and proclaims that childhood is entitled to special care and assistance. It is guided by the principle of a "**first call for children**" - a principle that the essential needs of children should be given highest priority in the allocation of resources at all times. It obligates the state **to respect and ensure** that children get a fair and equitable deal in society. It emphasizes the importance of the family and the need to create an environment that is conducive to the healthy growth and development of children. It advocates concerted public action by all individuals and agencies - government as well as non-governmental, local, national, regional and international - to promote the rights of the child. The Convention, in a sense, is a means of empowering children and creating an environment in which all children are able to live securely and realize their full potential in life.

Four sets of basic rights

The Convention draws attention to four sets of civil, political, social, economic and cultural rights of every child. These are:

The right to survival:

which includes the right to life, the highest attainable standard of health, nutrition, and adequate standards of living. It also includes the right to a name and a nationality.

The right to protection:

which includes freedom from all forms of exploitation, abuse, inhuman or degrading treatment, and neglect including the right to special protection in situations of emergency and armed conflicts.

The right to development:

which includes the right to education, support for early childhood development and care, social security, and the right to leisure, recreation and cultural activities.

The right to participation:

which includes respect for the views of the child, freedom of expression, access to appropriate information, and freedom of thought, conscience and religion.

The Convention provides the **legal basis** for initiating action to ensure the rights of children in society.

Guiding principles

The Convention is derived from a core set of human values and ethical premises that recognize the inherent dignity and the equal and inalienable rights of all members of the human family as the foundation of freedom, justice and peace in the world. Accordingly, the Convention states that the rights shall be extended to **all children without discrimination** of any kind, irrespective of the child's or his or her parent's or legal guardian's race, nationality, colour, sex, language, religion, political or other opinion, national, social origin, property, disability, birth or other status. The Convention also draws particular attention to the fact that in all countries in the world, there are **children living in exceptionally difficult circumstances**, and that such children need special consideration. It advocates measures for the protection and harmonious development of the child that are consistent with the **traditions and cultural values of different peoples**. By providing safeguards against economic and other policies that have a negative effect on the well-being of children, the Convention reaffirms a **commitment to promote social progress** that will ensure a better quality of life and greater freedom for people in general, and children in particular. It also underscores the importance and potential of **international cooperation** for promoting and improving the living conditions of children in every country.

India and the Convention

To an extent, the Convention reiterates and elaborates what is already contained in the Constitution of India. According to Article 39 of the Directive Principles of State Policy:

The State shall, in particular, direct its policy towards securing:

(.) that the health and strength of workers, men and women, and **the tender age of children** are not abused and that citizens are not forced by economic necessity to enter avocations unsuited to their age or strength;

(..) that **children** are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and that childhood and youth are protected against exploitation and against moral and material abandonment.

The National Policy for Children in 1974 affirmed the Constitutional provisions and declared that "it shall be the policy of the State to provide adequate services to children, both before and after birth and through the period of growth, to ensure their full physical, mental and social development. The State shall progressively increase the scope of such services so that, within a reasonable time, all children in the country enjoy optimum conditions for their balanced growth."

Government of India, by ratifying the Convention on the Rights of the Child on November 12, 1992, once again re-affirmed its commitment to children. This obligates the Government to:

- review national and state legislation and bring it in line with the provisions of the Convention;
- develop appropriate monitoring procedures to assess progress in implementing the Convention;
- involve all relevant government Ministries and departments, international agencies, non-governmental organizations, and the legal profession in the implementation and reporting process;
- publicize the Convention and seek public inputs for reporting; and,
- ensure that reporting is frank and transparent.

Also, by endorsing the 27 survival and development goals for the year 2000 laid down by the World Summit for Children, Government of India has firmly re-affirmed its commitment to advance the cause of children in India.

WHO IS A CHILD?

According to the Convention:

"....a child means every human being below the age of eighteen years unless, under the law applicable to the child, majority is attained earlier."

Article 1

The legal conception of a child varies depending upon the purpose: whether it is for imposing legal disabilities (e.g., in the political rights sphere), for spelling out duties and obligations (e.g., in juvenile justice systems), for affording protection (e.g., from exploitative or hazardous employment), or for establishing eligibility to receive benefits or special services (e.g., health, education and maintenance benefits). Underlying these alternative definitions are also very different conceptions of the child. These include viewing children as a burden which invoke rights to maintenance and support; regarding children as undergoing temporary disabilities making for rights to special treatment and special discrimination; treating children as specially vulnerable for ensuring rights of protection; and recognizing children as resources for the country's development giving rise to rights of nurturing and advancement. Under different economic and sociocultural circumstances, the child has also been regraded as a commodity, as an insurance, as a source of labour, and as a social burden.

In India too, the definition of a child varies with the purpose. The Census of India treats persons **below the age of fourteen** as "children". While making use of standard demographic data, social scientists include females in the age group of 15 to 19 years under the category of the "girl child." According to **the Constitution**, no child below the age of 14 years shall be employed to work in any factory or mine or engaged in any other hazardous employment (Article 23). The legal definition of a "child" depends very much upon the specific legislation.

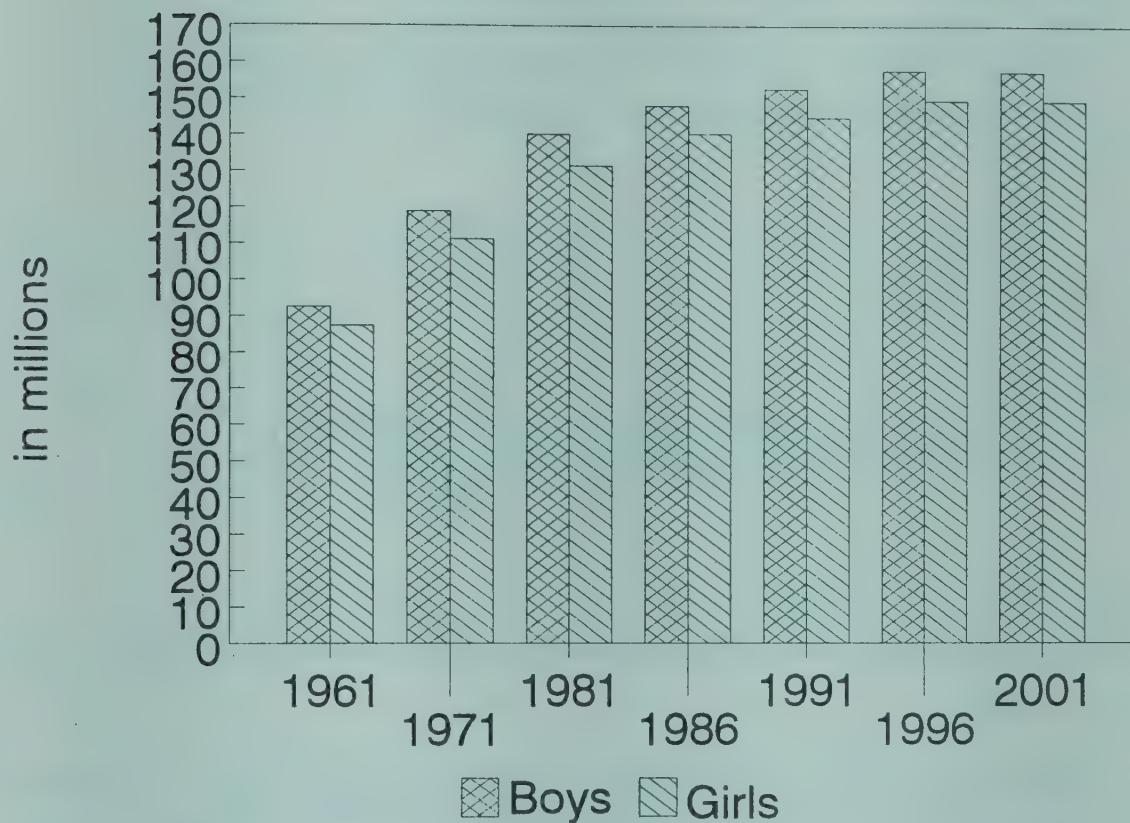
Definition of a child: Illustrations from the law in India

Criminal Law: Indian Penal Code, 1860	Nothing is an offence which is done by a child under seven years of age (Section 82) Nothing is an offence which is done by a child above seven years of age under twelve , who has not attained sufficient maturity of understanding to judge the nature and consequence of his conduct on that occasion. (Section 83)
Juvenile Law: The Juvenile Justice Act, 1986	"juvenile" is a boy who has not attained the age of sixteen years , and a girl who has not attained the age of eighteen years .
Family Law: Child Marriage Restraint Act, 1929	"child" means a person who, if a male, has not completed twenty-one years of age , and if a female, has not completed eighteen years of age .
Labour Laws: Apprentices Act, 1951	A person shall not be qualified to be engaged as an apprentice... unless he is not less than fourteen years of age .
Factories Act, 1948	No child who has not completed his fourteenth year shall be required or allowed to work in any factory.
Mines (Amendment) Act, 1983	No person below eighteen years of age shall be allowed to work in any mine or part thereof.
The Child Labour (Prohibition and Regulation) Act, 1986	"child" means a person who has not completed his fourteenth year of age .

CHILDREN IN INDIA

There are an estimated 300 million children between 0 and 14 years of age in India today, representing a little over one-third of India's population.

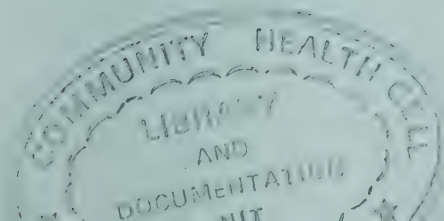
Child Population (0–14 years) in India:
1961 to 2001 (Projected)



Source: Census of India (1981) and Report of the Expert Committee on Population Projections quoted in National Institute of Public Cooperation and Child Development (1993).

As the graph indicates, despite the reduction in the birth rates from 41.9 per 1,000 population in 1960-61 to 29.5 in 1990-91, the child population has continued to increase. It is expected to reach a high of 307 million in 1996 after which there is likely to be a gradual reduction in child population with the decline in birth rates.

Also, there were an estimated 7.8 million fewer girls than boys in 1991. The female-to-male ratio works out to 0.949.



Most recent data from the Census of India 1991 indicate that there were 150 million children between 0 and 6 years of age. Some of the characteristics of this population group are given below:

- 73 million out of the 150 million children were girls, and 77 million were boys.
- 78 percent of children resided in "rural" areas.
- Two states, Uttar Pradesh and Bihar accounted for 30 percent of India's children in the age group of 0 to 6 years.
- There were 27 million (or 18 percent) children in the age group 0 to 6 years who belonged to populations classified as Scheduled Castes. Another 13.6 million (or 9 percent) of children belonged to populations classified as Scheduled Tribes.

STATUS OF INDIAN CHILDREN AND THEIR RIGHTS

The Convention states:

State Parties shall respect and ensure the rights set forth in the present Convention to each child.... irrespective of the child's or his parent's or legal guardian's race, colour, sex, language, religion, political or other opinion....

Article 2

Non-discrimination among children is an over-riding principle of the Convention. However, in India, not all children are treated equally, and many millions face asymmetric opportunities for survival and development. Among the groups of the disadvantaged, for instance, are the girl child, street children, children of prostitutes, and children belonging to socially and economically backward communities.

In most societies, girls equal the number of boys, or often outnumber them. However, in India, the situation is reversed. If one were to assume parity in the female to male ratio between boys and girls, there are nearly **4 million "missing girls"** in the age group of 0 to 6 years.

The adverse female to male ratio among children is attributable to the systematic deprivation and unequal treatment of girls vis-a-vis boys reported and documented in several parts of the country. For example:

- While the female IMR of 93 per 1,000 live births was marginally lower than the male IMR of 95 for India as a whole in 1990, in 11 out of 18 states for which data are available, infant mortality rates among girls was higher than among boys.
- Estimates of child mortality for 1981 also revealed that female mortality exceeded male mortality in 224 out of 402 districts of India.
- The age specific death rates for girls below fourteen years of age exceeds that of boys.

Girl children remain deprived of adequate access to basic health care, nutrition, and education. For example, recent analysis of medical contact rates across age and sex groups using NCAER's Market Information Survey of Households (MISH) data reveals that **"female children have lower contact rates than all other demographic groups, including adult females, and appear to be the most disadvantaged group within the household."** Similarly, a study carried out in 1988 of the Pediatrics Department of two teaching institutions in Ludhiana revealed that:

- out of the 20,407 children who attended the out-patient department, **65.2 percent were boys and 34.8 percent were girls.**
- out of 3,773 children admitted in the hospital, **83.5 percent were boys and only 16.5 percent were girls.**
- out of the children admitted, **the proportion of female children dying exceeded that of male children.** This suggests that even the fewer number of girl children who are admitted to the hospital, are brought in late during their course of illness.

The distribution of work within the household is typically biased against girls. Social norms also require girls to marry early, and assume domestic responsibilities. The extent of discrimination against the girl child from one state to another. For example:

- the life expectancy at birth of a girl child born in Uttar Pradesh (54 years) is today 20 years below that of a girl child born in Kerala (74 years).

In the population of children between 0 to 6 years of age, district level data from the Census of India reveal shockingly low female to male ratios in several districts:

Salem, Tamil Nadu	0.849
Bhind, Madhya Pradesh	0.850
Jaisalmer, Rajasthan	0.851
Kaithal, Haryana	0.854
Jind, Haryana	0.858
Amritsar, Punjab	0.861

Female infanticide is reported to be a cause for such adverse sex ratios in some districts, while in others the female foetus is selectively aborted.

Much less is known about the extent of deprivation and discrimination faced by street children, children of prostitutes, and children belonging to populations classified as belonging to Scheduled Castes and Scheduled Tribes. Available data reveal that in most cases, their conditions are far worse than those of children belonging to the rest of society.

THE RIGHT TO SURVIVAL

The problem of overcoming avoidable child deaths continues to plague several countries of the world. The fact that children die in this day and age when there are simple and cost-effective solutions to prevent escapable mortality is a matter of shame. UNICEF's Executive Director, Mr. James Grant, addressing the Executive Board in June 1993, remarked:

".... I now take the liberty, with your permission, of asking the Executive Board to observe a moment of silent respect for the 40,000 children who, dying this day largely from preventable and environmental causes, are losing their chance to enjoy the potential benefits and opportunities of Mother Earth - and for the 40,000 who lost that chance yesterday and the 40,000 children who will lose it tomorrow and every day. These deaths are not only the ultimate waste of the most precious resources of our planet, but as we learn how to prevent them they are increasingly becoming an obscenity. Morality marches with changing capacity."

The Convention places primary emphasis on the right of every child to avoid escapable mortality and morbidity, and to lead a healthy life.

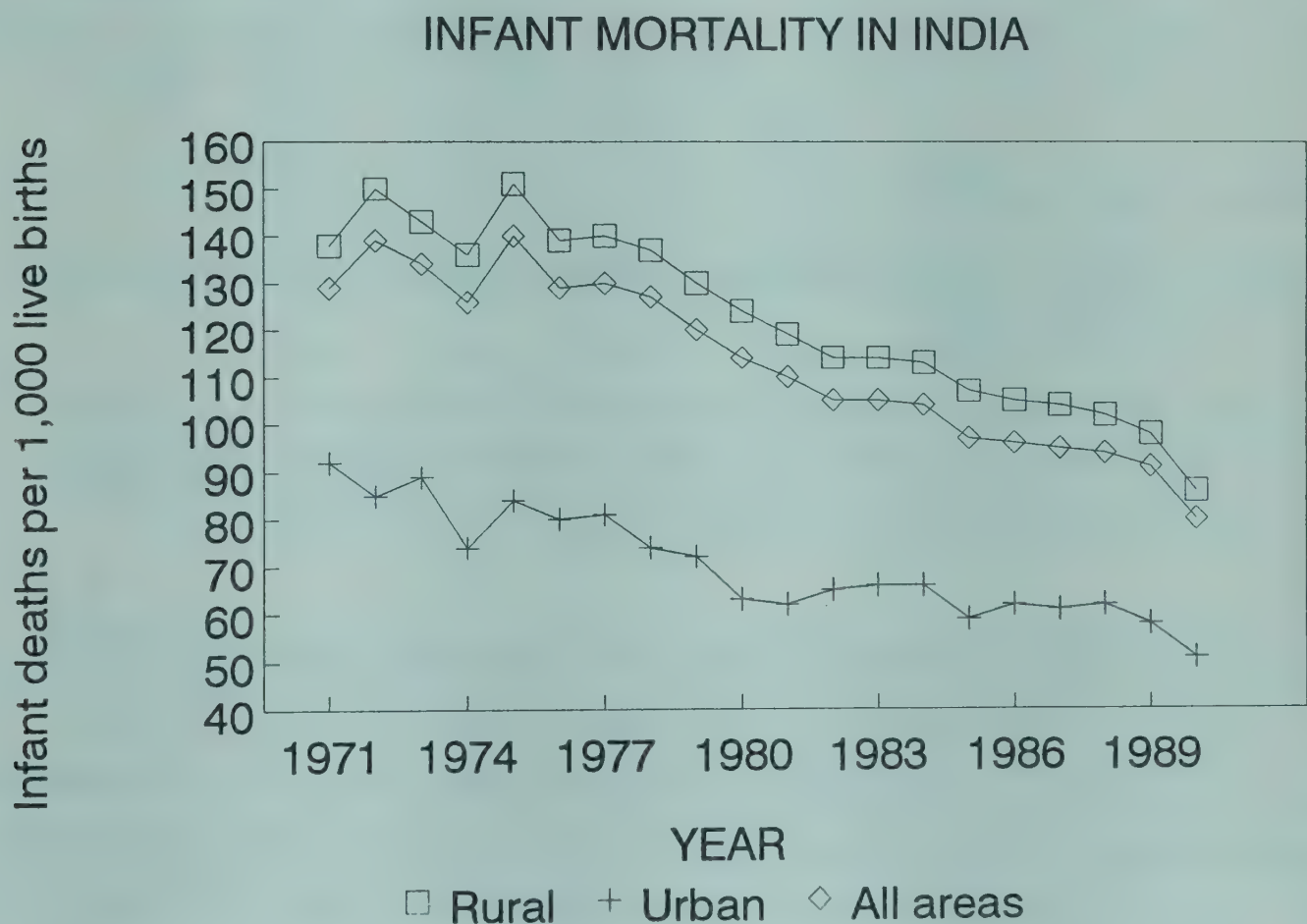
The Convention states:

State parties recognize that every child has the inherent right to life.

Article 6

Child mortality in India:

Most recent estimates place India's infant mortality rate (IMR) at 79 and the under-five mortality rate at 124 per 1,000 live births. 90 countries out of 145 had a lower infant mortality rate (U5MR) than India's, and 103 countries a lower under-five mortality rate. These included developing countries such as Botswana, Kenya, Zimbabwe, Egypt, Morocco, Sri Lanka, Viet Nam, Indonesia, and with the exception of Haiti, all countries in Central and South America and the Caribbean.



India has made progress in reducing its infant mortality rate from a level of 129 deaths per 1,000 live births in 1971 to 79 in 1992. Yet, of the 25 million children born every year in India, two million die before reaching the age of one. A majority of these deaths are due to avoidable infections and malnutrition.

Children in India continue to face unequal chances of survival depending upon where they are born. For example, infant mortality ranges from 17 per 1,000 live births in Kerala to 114 in Orissa. If all of India had Kerala's child birth and death rates, some 10 million fewer children would be born and some 1.76 million fewer children would die every year.

Also, infant mortality in rural areas has always exceeded the IMR in urban areas, and the gap continues to persist. For instance, the IMR in rural areas (86) in 1990 was higher than the IMR attained in urban areas twenty years ago (82 in 1971), and is much higher than current IMR levels in urban areas estimated to be 51 per 1,000 live births.

This does not, however, imply that child survival conditions in urban areas are uniformly superior to those prevailing elsewhere in the country. An estimated 38.8 million people live below the poverty line in urban areas, and it is estimated that 15 to 16 million children live in conditions of acute deprivations with inadequate access to basic health care, nutrition, safe drinking water, and education. Moreover, the reported high prevalence of HIV sero-positivity among urban prostitutes which makes populations living in urban slums particularly vulnerable to the spread of AIDS.

Chances of children surviving also vary with the socio-economic background of parents. For instance, the estimated U5MR in 1981 among infants of rural women who worked as agricultural labourers was 193; the corresponding figure for those engaged in non-manual employment was only 106. Again, in the category of manual women workers in rural areas, the U5MR estimates for 1981 ranged from 388 in Orissa to 109 in Kerala.

Health and health services:

The Convention states:

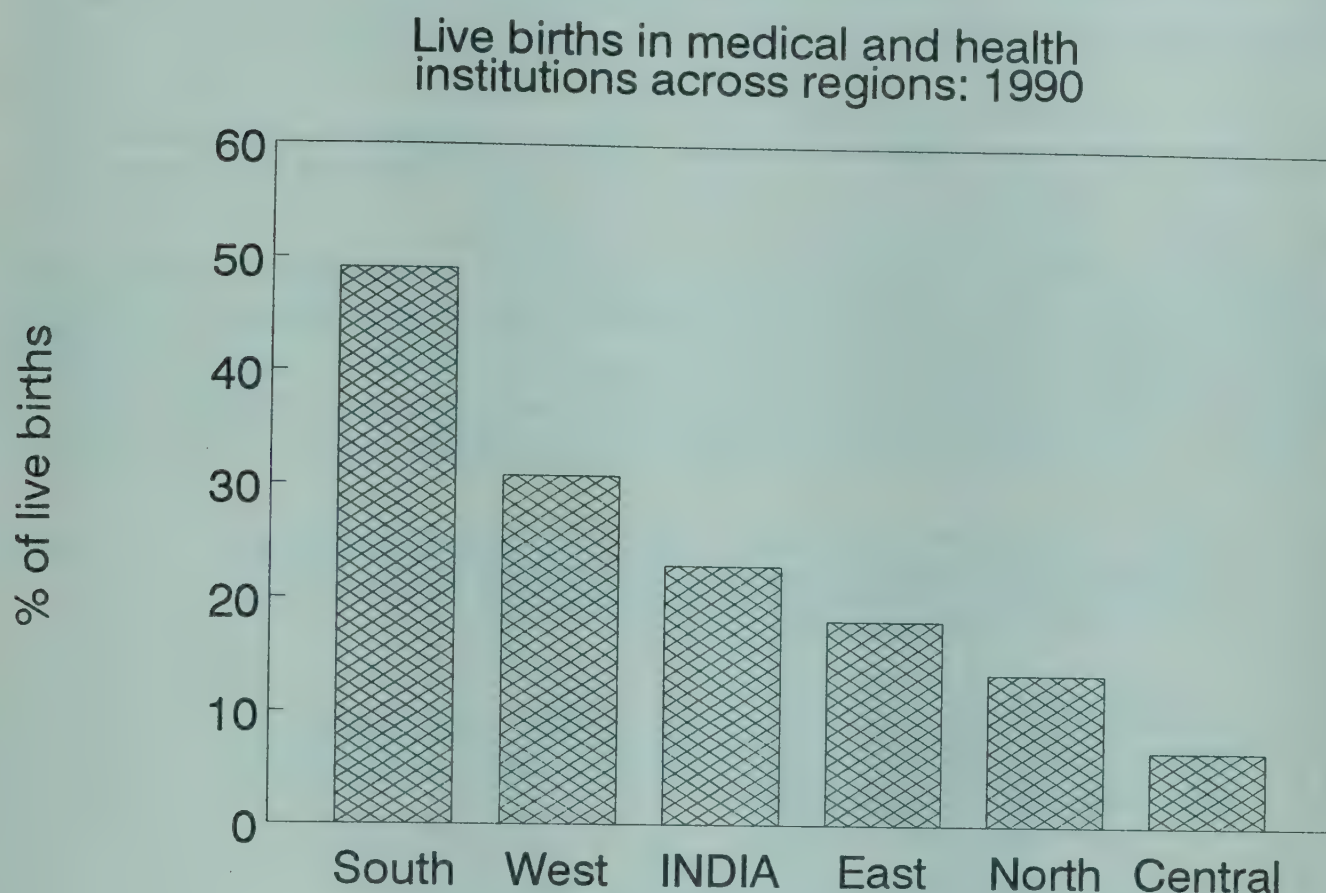
States Parties recognize the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health. State Parties shall strive to ensure that no child is deprived of his or her right of access to such health care services.

Article 24

There has been a steady expansion in the provisioning of public health and medical services in the country. As a result, children too have benefitted. In 1992, for instance, the proportion of one year old children reported to be immunized against DPT was 89 percent, against measles 85 percent, and against polio was 90 percent. The achievements, however, have not been equally impressive in all fields. For example, provider compliance with use of Oral Rehydration Salts for treatment of diarrhoea remains very low at 12 percent; and use of ORT is estimated to be 37 percent.

Access to and utilization of health and medical services by children have tended to vary across the country depending upon the costs, quality, and levels of public provisioning as well as upon the effectiveness of demand for such services. While not many studies have focussed on the relationship of costs and quality to access and utilization, provisioning in

urban areas is undoubtedly better than in rural areas. For instance, while 53 percent of children born in urban areas received medical attention in institutions like hospitals, maternity nursing homes and health centres, the corresponding figure for rural areas was only 16 percent. Again, while in Kerala, 90 percent of children received attention in such institutions at the time of birth, only four percent of children born in Uttar Pradesh received similar attention.



Source: Sample Registration System, 1990.

Studies on the health status of children in India have also repeatedly pointed to the importance of women's achievements, and that of mothers in particular. Health seeking behaviour among women and children is better among communities where women are more literate and educated, and have greater freedom to participate in economic activities outside the household. However, women's access to health facilities are often found to be constrained by various socio-cultural factors. Thus, in addition to focusing on improving public provisioning of basic services, and enhancing the incomes of the poor to avail of the services, efforts are also needed to address caste, class, and gender issues that restrict utilization of services in India.

The Convention states:

State Parties shall ... take appropriate measures:

.... to combat disease and **malnutrition**, including the framework of primary health care, through, inter alia, the application of ready available technology and through the provision of adequate nutritious foods and clean drinking-water...

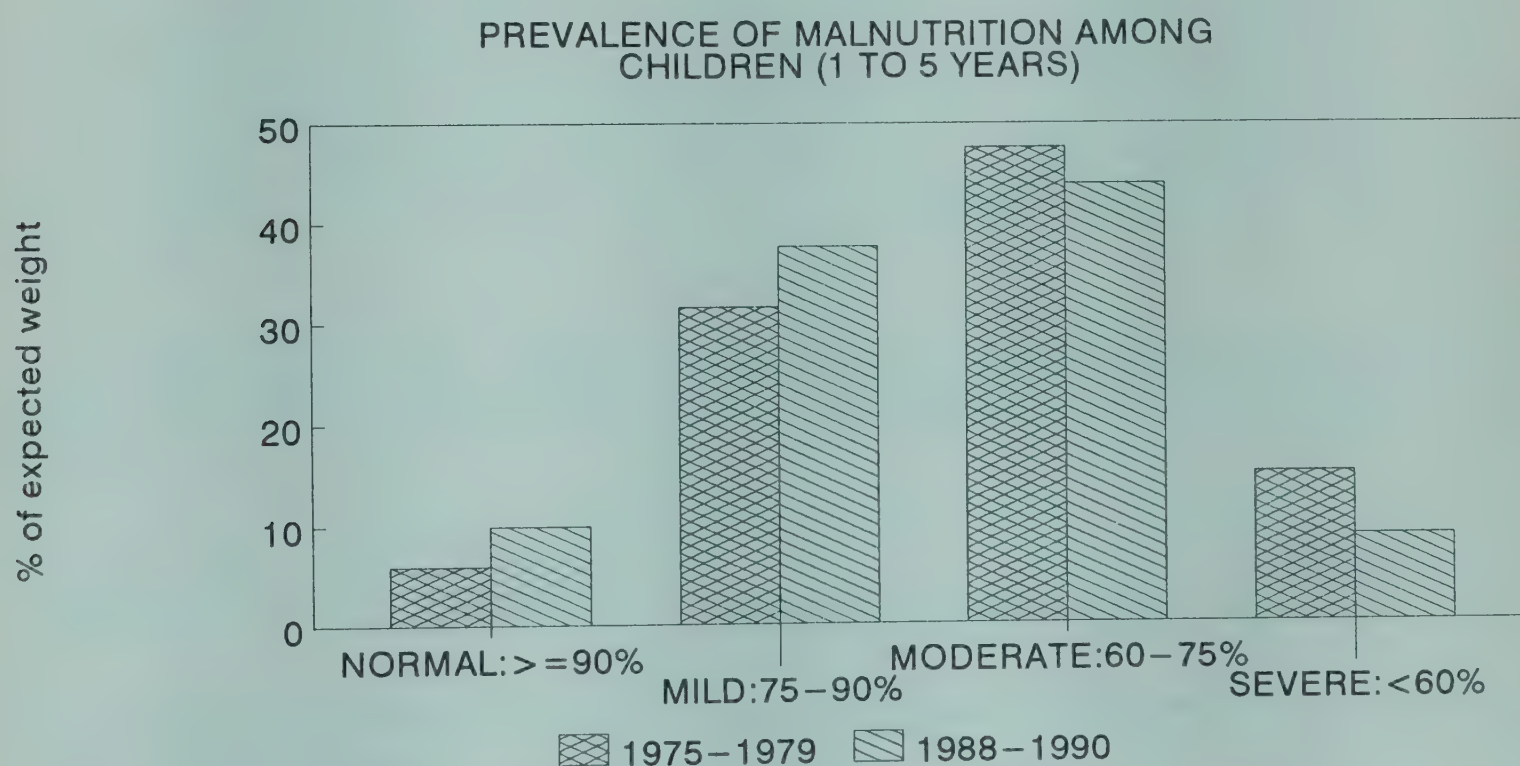
Article 24

Government of India's National Nutrition Policy (1993) draws attention to the serious problems of malnutrition among children in the country. Even though there has been a drop in the population below the poverty line to 29.2 percent in 1987-88, in terms of numbers, a staggering 250 million people presently suffer from varying degrees of malnutrition in India. Children in particular are worst affected. For example:

- nearly 43.8 percent of children suffer from moderate degrees of PEM (protein energy malnutrition) and 8.7 percent suffer from extreme forms of malnutrition.
- roughly 56 percent of pre-school children and almost 50 percent of expectant mothers in the third semester of pregnancy suffer from iron deficiency.
- no state in India is free of iodine deficiency.
- nearly 40 million persons are estimated to be suffering from goitre and 145 million are living in the known goitre endemic regions.
- close to 2.2 million children are afflicted with cretinism and about 6.6 million are mildly retarded and suffer from various degrees of motor handicaps.
- iodine deficiency alone accounts for an estimated 90,000 still births and neo-natal deaths every year.
- around 60,000 children become blind every year due to deficiency of Vitamin A coupled with protein energy malnutrition.
- an estimated 30 percent of all infants born in India are low weight babies, and the situation has not improved since 1979.

Recent studies also point out that children in urban slums and poor neighbourhoods in urban areas live under particularly vulnerable conditions of health and nutritional well-being. The risk of a slum child receiving a calorie-deficient diet, for instance, is reported to be twice as high as compared to those of children from middle income and low income families.

Government of India has taken several steps to address the problem of malnutrition. The Integrated Child Development Services (ICDS) launched in 1975 has expanded to become the largest nutrition programme in the world with 3,066 projects covering 16.2 million children in the age group of 0 to 6 years and 3.2 million pregnant women. The package of services provided under this programme includes supplementary feeding, immunization, health check-up, referral services, non-formal pre-school education and nutrition and health education. India's performance in terms of food production has also been impressive over the last few years, with record level of 180 million tonnes of foodgrain produced in 1992-93. The country has built up a food buffer stock of 23 million tonnes, and has in place a network of more than 400,000 fair price shops for public distribution of essential commodities to the poor at lower-than-market prices. Despite these and other programmes like the use of ORT and universal immunization, nutritional deprivation and hunger are the norm, with over 43.8% (1988-90) children suffering from moderate malnutrition and about 37.6% (1988-90) from mild malnutrition.



Source: National Institute of Nutrition (1993).

Government of India's Nutritional Policy recognizes that nutrition is a multisectoral issue, and has called for evolving a mix of both direct nutrition interventions as well as development policy instruments which will create conditions of improved nutrition. The Oslo Initiative for a World Alliance for Nutrition and Human Rights observes that "in order to ensure sound nutrition as much attention has to be given also to child care and protection and promotion of child health as to food security." Efforts to develop more such integrated approaches will need to be reinforced and strengthened.

THE RIGHT TO DEVELOPMENT:

The Convention states:

State parties shall ensure to the maximum extent possible the survival and **development** of the child.

Article 6

There are two types of development emergencies that need equal attention: "loud" emergencies which include natural disasters and armed conflicts that kill, displace or disable children; and, "silent" emergencies resulting from endemic poverty and widespread deprivations which lead to many more deaths than famines, flood or war. Widespread illiteracy, malnutrition, hunger, and morbidity, poor health, and neglect of women's concerns are examples of "silent" deprivations that have seldom received adequate attention. Prof. John Kenneth Galbraith, while "looking at the larger world and its present problems" in a lecture delivered in New Delhi in November 1992 remarked:

" ... Once it was understood: an educated populace is the first requirement for economic progress. That essential fact was forgotten: impressive steel mills, great hydroelectric dams, glistening airports, were too often sited amid ignorant people. I have previously made the point: in this world there is no literate population that is poor, no illiterate population that is other than poor."

A pro-children development strategy has to address both these types of emergencies, and also needs to be set in the larger context of the economic development strategy adopted by a country.

Education:

The Convention states:

State Parties recognize the right of the child to education, and with a view to achieving this right progressively and on the basis of equal opportunity, they shall, in particular, make primary education compulsory and free to all.

Article 28

Recognizing the need to make available free and universal primary education is not new to India. Article 45 of the Directive Principles of State Policy declares:

The State shall endeavour to provide within a period of ten years from the commencement of this Constitution, for free and compulsory education for all children until they complete the age of fourteen.

Constitution of India, 1950

The **National Policy on Education** (1986) as well as the goals for **Education for All** in India (1990) reaffirm the country's commitment to universalizing primary education by the year 2000.

There has been progress in the provisioning of primary schools over the last forty years:

- the number of recognized primary schools has gone up from 209,671 in 1951 to 572,541 in 1993.
- the number of primary school teachers went up from 538,000 in 1951 to 1,637,000 in 1991.
- the enrollment figures in primary schools went up from 19.2 million in 1951 to 99.1 million in 1991.

There has also been a shift in the financial allocations in favour of education, and within education, in favour of elementary education. For instance, spending on education as a proportion of GNP has risen from about 1.2 percent in 1950-51 to the current level of 3.9 percent. Government is committed to increasing the outlay on education from the current to 6 percent of GNP by the year 2000. During the 1980s, public expenditure on elementary education increased by 4.5 times from Rs. 15,373 million at the beginning of the decade to Rs.68,883 million in 1989-90. Expenditure on elementary education today accounts for about 45 percent of the total education budget.

But there is more ground to be covered. While statistics indicate that over 99 million children were enrolled in primary schools in 1990-91, much less is known about attendance, and the quality of education. Data also reveal that:

- an estimated 48 percent of the population remains illiterate today. About 19 to 24 million children in the age group 6-14 and over 121 million adult illiterates in the age group of 15 to 35 (with over 60 percent females in both cases) are estimated to constitute this group.

- despite the increase in the number of primary schools and teachers, the student-teacher ratio has worsened over the years, from 35.7 in 1950-1 to 60.5 in 1990-91.
- only 52 percent of enrolled primary school children reach Grade V.

There are also several inequities in the system that need to be corrected. For instance, fewer girls enroll in primary school and more girls than boys drop out before completing Grade V. Also, school drop out rates among children belonging to Scheduled Castes and Scheduled Tribes continues to be significantly higher than among children belonging to the rest of the population.

India is one of the few countries in the world where primary education is not compulsory. As Prof. Myron Weiner writes:

"...Modern states regard education as a legal duty, not merely as a right: parents are required to send their children to school, children are required to attend school, and the state is obligated to enforce compulsory education... The state thus stands as the ultimate guardian of children, protecting them against both parents and would-be employers. This is not the view held in India. Primary education is not compulsory, nor is child labor illegal."

While universalization of primary education and eradication of illiteracy in the age group of 15 to 35 years are basic objectives of education in the Eighth Five Year Plan (1992-1997), a major step in this direction will be to **make primary education compulsory**. Several other aspects of primary schooling too need to be simultaneously addressed. There is need to step up enrollment particularly among girls, keep children in school, reduce wastage, improve the efficiency of resource use in primary schools, and initiate action to enhance the quality of school education. School hours and the annual calendar have to be made flexible to accommodate local needs of parents and children. Above all, the teaching and learning environment has to be made more enjoyable, accountable and meaningful to children.



The Convention states:

State Parties shall take all appropriate legislative, administrative, social and educational measures to protect children from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse.....

Article 18

Child labour:

Economic exploitation of children in India is extensive and appears to have increased over the years. The Census of India 1981 estimated that there were 13.17 million child workers (below the age of fourteen) engaged mostly in rural agricultural activities. The National Sample Survey in 1983 estimated that there were 17.36 million child workers in the age group of 5 to 15 years. The Operations Research Group placed the figure at 44 million in 1983. Most of these children work under stressful conditions in agriculture, and other industries, often hazardous. Some are "bonded" and even sold into prostitution. The Planning Commission estimates that there would be around 20 million child workers by the year 2000.

The Convention states:

State Parties recognize the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development.

Article 32

The prevalence of such high levels of child labour is attributable in good measure to the fact that primary education for children is not compulsory in India. Children who are out of school invariably perform work of some sort, either at home or outside, and at wages that are often exploitative, and under conditions that are clearly harmful. Most of the working children also belong to families that are extremely poor. Parents of such children, themselves deprived of basic education, find it extremely difficult to support their families. Children who work, therefore, are the ones who need education most of all to break out of the poverty and debt trap.

In addition to legislative measures that will make primary education compulsory and hiring of children illegal under all circumstances, undertaking public advocacy and building social awareness should be regarded as critical elements of public action to ensure the elimination of child labour.

Children in difficult circumstances

India has several million children living under especially difficult circumstances. These include, for instance, an estimated 500,000 street children in seven cities: Bangalore, Bombay, Calcutta, Delhi, Hyderabad, Kanpur and Madras. The majority of these children are over eight years of age, have never attended school, and have parents who have low paid unskilled jobs. Destitute and orphaned children are another group about which very little is known. Similarly, there is very little information available about children of prostitutes, children in institutions, children of construction workers, children of fisherfolk, disabled children, and children affected by riots and disasters: all of whom fall under the category of "children in especially difficult circumstances." There is also reportedly sale of such children and girl trafficking across regional and even national borders.

Policy makers have long ignored the special needs of such children. The Convention makes a strong case for special consideration to protect the rights of these children.

THE RIGHT TO PARTICIPATION

The Convention states:

State Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.

Article 12

Included in the right to participation is the right of accused children, for instance, to be treated with dignity in the juvenile justice system. According to the Convention:

" The State shall ensure that no child is arbitrarily detained or subjected to torture, cruel, inhuman or degrading treatment or punishment, capital punishment or life imprisonment. Accused children have the right to be presumed innocent until proven guilty in a prompt and fair trial, to legal or other assistance, to be detained separately from adults, to maintain contact with family and to receive a sentence based on rehabilitation rather than punishment."

Limited data available on juvenile crimes for 1991 reveal that 29,591 juveniles were apprehended for various crimes under the Indian Penal Code and Local and Special Laws. Most of the juveniles were apprehended on charges of theft, burglary, riots, and under the Prohibition Act and the Gambling Act. Of those apprehended:

- 23,201 were boys and 6,390 were girls
- 20 percent were children between the ages of 7 and 12 years, 64 percent were in the age group of 12 to 16 years, and 16 percent were girls in the age group of 16 to 18 years.
- 38 percent were illiterate and 36 percent had completed primary schooling.
- 70 percent were living with parents, another 19 percent with guardians, and only 11 percent were homeless.
- 84 percent were new delinquents and 16 percent were old delinquents
- 60 percent belonged to families who were earning less than Rs.500 a month

Little information, however, is available on the more crucial aspect of treatment meted out to these children. Legal representation of poor children is rare; and very few facilities exist for detention of children separately from adults. Much less is known about the availability and effectiveness of rehabilitation facilities.

Again, children in India, and girls in particular, have reportedly little say in the matter of marriage. There are still several thousands of child marriages reported throughout the country. In 1981, for instance, 43 percent of the girls in the age group of 15 to 19 years were married. Although this proportion varied from 7 percent in Goa, Daman and Diu to 64 percent in Rajasthan, early marriages are seldom viewed as a violation of a child's freedom to enjoy childhood.

AREAS FOR PUBLIC ACTION

The survival and development goals of the World Summit for Children provide substance to the commitment to implement the provisions of the Convention. The National Plan of Action for the Child formulated by Government of India incorporates immediate as well as goals for the year 2000, and outlines a time bound strategy for achieving the targets.

Government of India
National Plan of Action
A Commitment to the Child
1992

Immediate Goals of National Plan of Action

Education:

- * Access to enrolment in primary education for at least 80% of boys and 75% of girls by 1995
- * Completion of primary education by at least 50% of girls as well as boys by 1995
- * Reduction of adult and adolescent illiteracy from 1990 level by 25% by 1995

Health:

- * Universal use of oral rehydration therapy for home based treatment of diarrhoea and universal access to oral rehydration salts by 1996
- * Access to family planning services in order to increase contraceptive prevalence levels by 50% from the current rate by the year 2000

Nutrition:

- * Universal access to iodized salt by 1995

Child labour:

- * Progressive and accelerated elimination of child labour

Safe environment:

- * Access of safe drinking water to not less than 3/4th of both rural/urban population by 1996 and universal access by the year 2000
- * Double current levels of access to sanitary means of excreta disposal by 1996

Government of India
National Plan of Action
A Commitment to the Child
1992

Illustrative list of Goals for the year 2000

Survival:

- * Reduction of IMR to less than 60 per 1,000 live births
- * Reduction of U5MR to less than 70 by 2000 A.D.
- * Reduction of maternal mortality rate by half

Health:

- * Eradication of poliomyelitis by the year 2000
- * Elimination of neonatal tetanus by 1995
- * Reduction by 95 percent in measles deaths and reduction by 90 percent of measles cases compared to pre-immunization levels by 1995
- * Achievement and maintenance of high level of immunization coverage at a level of 100 percent of infants
- * Reduction by 50 percent in deaths due to diarrhoea in children under the age of 5 years
- * Reduce mortality rates due to ARI among children under 5 by 40 percent by 2000 A.D. from the present level

Nutrition:

- * Reduction in severe and moderate malnutrition among under-5 children by half between 1990 and the year 2000.

Education:

- * Universal access to primary education with special emphasis for girls and accelerated literacy programme for women

Water and sanitation:

- * Universal access to safe drinking water and improved access to sanitary means of excreta disposal

Children in especially difficult circumstances:

- * Improved protection of children in especially difficult circumstances

The girl child:

- * To remove the gender bias and to improve the status of the girl child in society as to provide her with equal opportunities for her survival and development to her full potential

Children and the environment:

- * To conserve and protect environment so that it is conducive to the health and well being of the children

Advocacy and people's participation

- * Advocacy for the child as everyone's concern and

Some of the goals are well within reach, while in the case of others much more needs to be done. Action needs to be taken along multiple fronts and by all agencies - government and non-governmental, local, regional, national and international - to promote the cause of children in India.

SIX MEASURES TO PROMOTE CHILD RIGHTS

1. PROMOTE PRO-CHILDREN DEVELOPMENT STRATEGIES

to include child-focused programmes such as making primary education compulsory, eliminating child labour, protecting and promoting health care for children by ensuring access to Vitamin A, iodized salt, immunization, and ORT; and ensuring adequate flow of resources to meet essential needs of children first.

2. DEVELOP LEGISLATION THAT CONFORMS TO THE CONVENTION ON THE RIGHTS OF THE CHILD

to include enforcement of existing laws, introduction of new legislation, revision of curriculum, and so on, wherever required, to protect and promote the well-being of children; and

3. ENCOURAGE AFFIRMATIVE ACTION TO ELIMINATE DISCRIMINATION AGAINST THE GIRL CHILD

to include reduction of disparities and ensuring gender equality in the life-cycle

4. SUPPORT PARTICIPATORY AND DECENTRALIZED DECISION MAKING

by promoting people's participation through community organizations, Panchayats, NGOs, consumer forums, associations of professionals, private sector agencies, trade unions, businesses, media, and other public bodies.

5. ADVOCATE CHILD RIGHTS ISSUES

through effective dissemination of information, research and policy analysis of the concerns of children.

6. MONITOR AND REPORT ON CHILD RIGHTS

by developing a set of indicators that will illustrate the position on child rights

The Goals offer a concrete basis for developing **National Plans of Action** and **State Plans of Action** whereby children are guaranteed adequate attention and care to achieve proper growth and realize their full potential. Some of the states like Tamil Nadu and Madhya Pradesh have already taken the initiative to launch programmes of action, and many more are in the process of finalizing state plans of action. Tamil Nadu's 15-Point Programme for Child Welfare includes most of the goals as well as others adapted specifically to the conditions prevailing in the State.

While the Convention obligates the States to ensure well-being of children, responsibility needs to be taken by all sections of society. Large scale public action needs to be mobilized very soon and very effectively. India faces a real challenge: but the challenge is certainly not insurmountable given the country's past record, its resources and human capabilities. Shaping the future today for tomorrow's India by investing in children is the best development strategy for the country.

Notes

THE CONVENTION:

Details on the Convention on the Rights of the Child are available in UNICEF (1992).

WHO IS A CHILD?:

On the legal conception of a child, see Dias (1991). The various legislation relating to children in India including a commentary on the various provisions is well documented in National Law School of India University and United National Children's Fund (1991).

CHILDREN IN INDIA:

Data are from Census of India (1992), Census of India (1988b). Population projections are based on the Report of the Expert Committee set up by Government of India and are quoted in National Institute of Public Cooperation and Child Development (1993).

STATUS OF INDIAN CHILDREN AND THEIR RIGHTS:

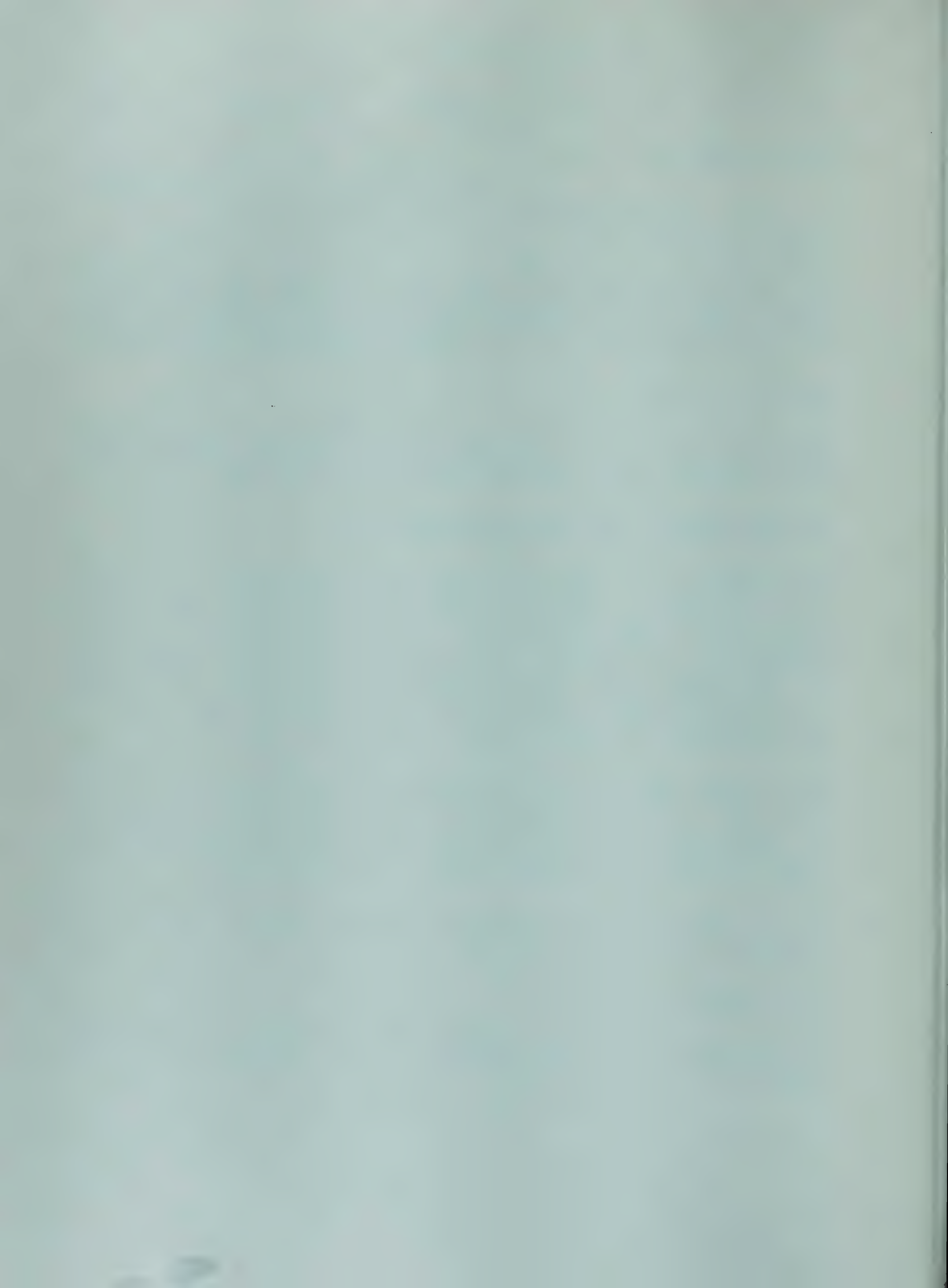
The calculation of "missing girls" is similar to the computation of "missing women" done by Sen and explained in Dreze and Sen (1989), pages 51-52. Figures on IMR are from Office of Registrar General (1990). Estimates of U5MR for 1981 are from Census of India (1988a), and for 1992 from UNICEF (1994). Data on age specific death rates are based on the Sample Registration System and quoted in National Institute of Public Cooperation and Child Development (1993). Analysis of NCAER's data is reported in Deolalikar and Vashishtha (1992). Figures of life expectancy are from Government of India (1992a). Sex ratios for children are calculated on the basis of data in Census of India (1992).

Data on medical attention received at the time of birth are from Office of Registrar General (1990). Results of the Ludhiana study are reported in Sachar et al (1990). Data on nutrition are from Government of India (1993b). Data on primary schooling is from Government of India (1993c, 1993d, and 1994). Data on the urban child and urban conditions are from Bose (1992) and articles contained in National Institute of Urban Affairs (1993).

Data on juvenile crimes are from Crime in India, 1991 quoted in National Institute of Public Cooperation and Child Development (1993).

AREAS FOR PUBLIC ACTION:

Immediate goals as well as Goals for the Year 2000 are listed in Government of India (1992b). Details of Tamil Nadu's 15 point programme are in Government of Tamil Nadu (1993).



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APPENDIX

GOALS FOR CHILDREN AND DEVELOPMENT IN THE 1990s

The following goals have been formulated through extensive consultation in various international forums attended by virtually all Governments, the relevant United Nations agencies including the World Health Organization (WHO), UNICEF, the United Nations Population Fund (UNFPA), the United Nations Educational, Scientific and Cultural Organization (UNESCO), the United Nations Development Programme (UNDP) and the International Bank for Reconstruction and Development (IBRD) and a large number of goals are recommended for implementation by all countries where they are appropriate adaptation to the specific situation of each country in terms of needs, priorities and availability of resources, with respect for cultural, religious and linguistic differences. Additional goals that are particularly relevant to a country's specific situation should be added in its national plan of action.

GOALS FOR CHILD SURVIVAL, DEVELOPMENT AND PROTECTION

In 1990 and the year 2000, reduction of infant and under-5 child mortality rate to one-third or to 50 and 70 per 1,000 live births respectively, whichever is less;

In 1990 and the year 2000, reduction of maternal mortality rate by half.

In 1990 and the year 2000, reduction of severe and moderate malnutrition among under-5 children by half.

Universal access to safe drinking water and to sanitary means of excreta disposal.

By the year 2000, universal access to basic education and completion of primary education by at least 80 per cent of primary school-age children;

1. Reduction of the adult illiteracy rate (the appropriate age group to be determined in each country) to at least half its 1990 level with emphasis on female literacy;

g. Improved protection of children in especially difficult circumstances.

2. SUPPORTING / SECTORAL GOALS

A. Women's Health And Education

a. Special attention to the health and nutrition of the female child and to pregnant and lactating women;

b. Access by all couples to information and services to prevent pregnancies that are too early, too closely spaced, too late or too many.

c. Access by all pregnant women to pre-natal care, trained attendants during childbirth and referral facilities for high-risk pregnancies and obstetric emergencies.

- d. Universal access to primary education with special emphasis for girls and accelerated literacy programmes for women.

B. Nutrition

- a. Reduction in severe, as well as moderate malnutrition among under-5 children by half of 1990 levels;
- b. Reduction of the rate of low birth weight (2.5 kg or less) to less than 10 per cent.
- c. Reduction of iron deficiency anaemia in women by one third of the 1990 levels;
- d. Virtual elimination of iodine deficiency disorders;
- e. Virtual elimination of vitamin A deficiency and its consequences, including blindness;
- f. Empowerment of all women to breast-feed their children exclusively for four to six months and to continue breast-feeding, with complementary food, well into the second year;
- g. Growth promotion and its regular monitoring to be institutionalized in all countries by the end of the 1990s;
- h. Dissemination of knowledge and supporting services to increase food production to ensure household food security.

C. Child Health

- a. Global eradication of poliomyelitis by the year 2000;
- b. Elimination of neonatal tetanus by 1995;
- c. Reduction by 95 per cent in measles deaths and reduction by 90 per cent of measles cases compared to pre-immunization levels by 1995, as a major step to the global eradication of measles in the longer run;
- d. Maintenance of a high level of immunization coverage (at least 90 per cent of children under one year of age by the year 2000) against diphtheria, pertussis, tetanus, measles, poliomyelitis, tuberculosis and against tetanus for women of child-bearing age;
- e. Reduction by one third in the deaths due to acute respiratory infections in children under five years.

D. Water And Sanitation

- a. Universal access to safe drinking water.
- b. Universal access to sanitary means of excreta disposal;
- c. Elimination of guinea-worm disease (dracunculiasis) by the year 2000.

E. Basic Education

- a. Expansion of early childhood development activities, including appropriate low-cost family and community-based interventions;
- b. Universal access to basic education, and achievement of primary education by at least 80 per cent of primary school-age children through formal schooling or non-formal education of comparable learning standard, with emphasis on reducing the current disparities between boys and girls;
- c. Reduction of the adult illiteracy rate (the appropriate age group to be determined in each country) to at least half its 1990 level, with emphasis on female literacy;
- d. Increased acquisition by individuals and families of the knowledge, skills and values required for better living, made available through all educational channels, including the mass media, other forms of modern and traditional communication and social action, with effectiveness measured in terms of behavioral change.

F. Children In Difficult Circumstances

Provide improved protection of children in especially difficult circumstances and tackle the root causes leading to such situations.

University of London, 1962

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